

COMMISSION ON TEACHER CREDENTIALING

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**OFFICE OF THE EXECUTIVE DIRECTOR**

January 27, 2006

06-0001

To: All Individuals and Groups Interested in the Activities of the California Commission on Teacher Credentialing

From: Dr. Sam W. Swofford, Executive Director

Subject: Changes in Certificated Assignment Monitoring and Data Reporting Starting in the 2005-2006 School Year

Coded Correspondence 05-0014, dated August 28, 2005, described the implementation of the changes in the monitoring and data reporting by county offices of education for the 2004-05 school year as a result of the settlement in *Williams v State of California*. The correspondence included information concerning two bills, AB 3001 (Chapter 902, Statutes of 2004) and AB 831 (Chapter 118, Statutes of 2005) in relation to Education Code (EC) §44258.9. This correspondence addresses the additional changes found in SB 512 (Chapter 677, Statutes of 2005) starting in the 2005-2006 school year.

Changes to Assignment Monitoring in EC Section 44258.9

SB 512 made changes to certificated assignment monitoring and English learner (EL) data collection in EC §44258.9. The full text of the code section appears in the Appendix.

The changes are:

- 1) Monitoring of all assignments, teaching and non-teaching, must be annually conducted and reported by county offices for schools in deciles 1, 2, and 3 as determined by the 2003 Academic Performance Index (API) base unless the school is under review through a state or federal intervention program. See below for more information.
- 2) If a school is under state or federal review, the exemption from assignment monitoring responsibilities is limited to the annual monitoring of all assignments in the decile 1, 2 and 3 schools (2003 API) and does not extend to the EL data collection or the regular one-fourth of districts monitoring. See page 2 for additional information.
- 3) As a result of the annual monitoring of all assignments, if a decile 1, 2, and 3 school (2003 API) is found to have no teacher misassignments or teacher vacancies for two consecutive years, the school may return to their district's regular monitoring cycle. However, decile 1, 2, and 3 schools that are likely to have problems with teacher misassignment and teacher vacancies may be annually monitored at the discretion of the county office. Information on teacher vacancies may be found on page 3 of this correspondence.

Decile 1, 2, and 3 Schools (API 2003 base)

Beginning with the 2005-2006 school year, subdivision (b)(1)(B) of EC §44258.9 requires the county offices of education to annually monitor all assignments, teaching and non-teaching, in the decile 1, 2, and 3 schools unless the school is under review through a state or federal

intervention program. Title 5 Section 17101 defines which schools are considered “under review” for purposes of implementation of the *Williams* settlement.

If the annual review of schools ranked in deciles 1, 2, and 3, inclusive of the 2003 API, finds that a school has no teacher misassignments or teacher vacancies, the school may be included with their district's next review according to their regular four-year cycle. However, if based on the assignment monitoring during the regular four-year cycle, past experience or other available information the county office finds that the school and school districts are likely to have problems with teacher misassignments and teacher vacancies, the decile 1, 2, and 3 school may return to annual monitoring. The county office makes this determination.

Special education schools included last year in the decile 1, 2, and 3 (2003 API) school list have now been removed. In addition, only charter schools that opted into the monitoring are included in the list. The list of schools is monitored by the California Department of Education (CDE). The list was updated in November by the CDE and may be found on its web site at: <http://www.cde.ca.gov/eo/ce/wc/wmsschools.asp>. A contact person concerning questions about the list may also be found at this link

Appropriate Assignment of Teachers of English Learners

Appropriate assignment of teachers of English learners is not limited to decile 1, 2, and 3 schools but applies to all K-12 classes. The *Williams* settlement requires county offices to take a closer review of the assignments for teachers of ELs. As a result of these reviews, additional teachers have been found by their local employing agencies to not hold the appropriate authorization to serve ELs.

If an employing agency needs assistance in determining the options for teachers to earn the appropriate EL authorization, the employing agency may work with the county office of education. In addition, staff in the Commission’s Assignment Unit may assist both the county and school districts. See the section on Contacts at the end of this correspondence.

The local level determines if a student needs EL services. If so, the teacher must hold an appropriate EL authorization. ELs identified in California K-12 public schools are required to receive services designed to meet their linguistic and academic needs based on assessments made by the local employing agency. When instructional services are needed to ensure success in English, an appropriately authorized teacher responsible for English Language Development and other core content instruction is required. State laws do not specify exemptions for a subject area or particular number of ELs needing services in a class.

There is no "date" by which an individual needs to have an authorization to serve in an assignment, including providing services to ELs, other than to have the authorization prior to providing services. Only teachers providing EL services need to hold an EL authorization. There are several sections of the Education Code that reference requiring an individual to hold certification for the subject(s) they are teaching. These are *EC* §44001, 44830(a), and 44831. Regarding EL services specifically, *EC* §44253.1 is a reference.

EL Data Collection

As previously explained in Coded Correspondence 05-0014, data must also be reported on certificated employee assignment practices in schools ranked in deciles 1, 2, and 3 (2003 API) in all class in these schools in which 20 percent or more pupils are English learners. If the school is

listed in decile 1, 2, or 3, **all** teaching assignment must be reviewed to verify if 20 percent or more of the students are English learners and, if so, whether the teacher holds the appropriate English learner authorization. In addition to the list of subject areas and settings in Coded Correspondence 05-0014, vocational classes must also be reviewed for the EL data collection if the class is in a decile 1, 2, or 3 school (2003 API). Additional information concerning routes to earn an EL authorization for holders of vocational credentials will be sent in a separate communication.

Misassignment and Correction of Misassignments

The Commission established Title 5 regulations concerning sanctions for unauthorized assignments. These sanctions are for all assignments including services to ELs. The sanctions primarily address the administrator who knowingly misassigns an individual and the action the Commission may take against the administrator. In addition, the regulations include a section concerning a teacher who knowingly accepts an assignment for which he/she does not have the appropriate authorization. EC §44258.9 includes a section with procedures for a teacher to follow if they believe they are in an assignment for which they do not hold appropriate certification. A link to the sanctions is included in the Reference section of this correspondence.

Teacher Vacancies

For purposes of determining if a decile 1, 2, and 3 school (2003 API) has teacher vacancies, county offices may review the district's School Accountability Report Card (SARC) as each superintendent is required to report teacher vacancy information on the SARC. Teacher vacancies is defined in EC §33126(b)(5)(A)(B). Questions concerning the SARC may be addressed to the California Department of Education (CDE) at 916-319-0421.

Data Bases

County offices must report the results of the monitoring to the Commission and the CDE by July 1st via the on-line process. The Commission is in the process of redesigning the data base used in 2004-2005 for reporting the English learner data that will combine the reporting of both the data of the monitoring of all assignments and the English learner data collection in the decile 1, 2, and 3 schools. The Commission will contact the county offices of education when the data base is ready for use.

References

List of decile 1, 2, and 3 schools: <http://www.cde.ca.gov/eo/ce/wc/wmsschools.asp>

Coded Correspondence 05-0014: <http://www.ctc.ca.gov/notices/coded/050014/050014.html>

Assignment Sanctions: http://www.ctc.ca.gov/credentials/manuals-handbooks/AdminAssign_2001.pdf

Contacts

Questions concerning assignment monitoring, data collection and reporting, or appropriate assignment for all assignments including English learners:

California Commission on Teacher Credentialing: Assignment Unit

Telephone - (916) 322-5038 (voice mail message line);

E-mail - cawassignments@ctc.ca.gov

Appendix

A: *Education Code* Section 44258.9

Appendix A

Education Code Section 44258.9

- (a) *The Legislature finds that continued monitoring of teacher assignments by county superintendents of schools will ensure that the rate of teacher misassignment remains low. To the extent possible and with funds provided for that purpose, each county superintendent of schools shall perform the duties specified in subdivisions (b) and (c).*
- (b) (1) *Each county superintendent of schools shall monitor and review school district certificated employee assignment practices in accordance with the following:*
- (A) *Annually monitor and review schools and school districts that are likely to have problems with teacher misassignments and teacher vacancies, as defined in subparagraphs (A) and (B) of paragraph (5) of subdivision (b) of Section 33126, based on past experience or other available information.*
- (B) *Annually monitor and review schools ranked in deciles 1 to 3, inclusive, of the 2003 base Academic Performance Index, as defined in subdivision (b) of Section 17592.70, if those schools are not currently under review through a state or federal intervention program. If a review completed pursuant to this subparagraph finds that a school has no teacher misassignments or teacher vacancies for two consecutive years, the next review of that school may be conducted according to the cycle specified in subparagraph (C), unless the school meets the criteria of subparagraph (A).*
- (C) *All other schools on a four-year cycle.*
- (2) *Each county superintendent of schools shall investigate school and district efforts to ensure that any credentialed teacher serving in an assignment requiring a certificate issued pursuant to Section 44253.3, 44253.4, or 44253.7 or training pursuant to Section 44253.10 completes the necessary requirements for these certificates or completes the required training.*
- (3) *The Commission on Teacher Credentialing shall be responsible for the monitoring and review of those counties or cities and counties in which there is a single school district, including the Counties of Alpine, Amador, Del Norte, Mariposa, Plumas, and Sierra, and the City and County of San Francisco. All information related to the misassignment of certificated personnel and teacher vacancies shall be submitted to each affected district within 30 calendar days of the monitoring activity.*
- (c) *County superintendents of schools shall submit an annual report to the Commission on Teacher Credentialing and the department summarizing the results of all assignment monitoring and reviews. These reports shall include, but need not be limited to, the following:*
- (1) *The numbers of teachers assigned and types of assignments made by the governing board of a school district under the authority of Sections 44256, 44258.2, and 44263.*

- (2) *Information on actions taken by local committees on assignment, including the number of assignments authorized, subject areas into which committee-authorized teachers are assigned, and evidence of any departures from the implementation plans presented to the county superintendent by school districts.*
- (3) *Information on each school district reviewed regarding misassignments of certificated personnel, including efforts to eliminate these misassignments.*
- (4) (A) *Information on certificated employee assignment practices in schools ranked in deciles 1 to 3, inclusive, of the 2003 base Academic Performance Index, as defined in subdivision (b) of Section 17592.70, to ensure that, at a minimum, in any class in these schools in which 20 percent or more pupils are English learners the assigned teacher possesses a certificate issued pursuant to Section 44253.3 or 44253.4 or has completed training pursuant to Section 44253.10 or is otherwise authorized by statute.*

(B) *This paragraph shall not relieve a school district from compliance with state and federal law regarding teachers of English learners or be construed to alter the definition of "misassignment" in subparagraph (B) of paragraph (5) of subdivision (b) of Section 33126.*
- (5) *After consultation with representatives of county superintendents of schools, other information as may be determined to be needed by the Commission on Teacher Credentialing.*
- (d) *The Commission on Teacher Credentialing shall submit biennial reports to the Legislature concerning teacher assignments and misassignments which shall be based, in part, on the annual reports of the county superintendents of schools.*
- (e) (1) *The Commission on Teacher Credentialing shall establish reasonable sanctions for the misassignment of credential holders.*

Prior to the implementation of regulations establishing sanctions, the Commission on Teacher Credentialing shall engage in a variety of activities designed to inform school administrators, teachers, and personnel within the offices of county superintendents of schools of the regulations and statutes affecting the assignment of certificated personnel. These activities shall include the preparation of instructive brochures and the holding of regional workshops.

- (2) *Commencing July 1, 1989, any certificated person who is required by an administrative superior to accept an assignment for which he or she has no legal authorization shall, after exhausting any existing local remedies, notify the county superintendent of schools in writing of the illegal assignment. The county superintendent of schools shall, within 15 working days, advise the affected certificated person concerning the legality of his or her assignment. There shall be no adverse action taken against a certificated person who files a notification of misassignment with the county superintendent of schools. During the period of the misassignment, the certificated person who files a written notification with the county superintendent of schools shall be exempt from the provisions of Section 45034. If it is determined that a misassignment has taken place, any performance*

- evaluation of the employee under Sections 44660 to 44664, inclusive, in any misassigned subject shall be nullified.*
- (3) *The county superintendent of schools shall notify, through the office of the school district superintendent, any certificated school administrator responsible for the assignment of a certificated person to a position for which he or she has no legal authorization of the misassignment and shall advise him or her to correct the assignment within 30 calendar days. The county superintendent of schools shall notify the Commission on Teacher Credentialing of the misassignment if the certificated school administrator has not corrected the misassignment within 30 days of the initial notification, or if the certificated school administrator has not described, in writing, within the 30-day period, to the county superintendent of schools the extraordinary circumstances which make this correction impossible.*
- (4) *The county superintendent of schools shall notify any superintendent of a school district in which 5 percent or more of all certificated teachers in the secondary schools are found to be misassigned of the misassignments and shall advise him or her to correct the misassignments within 120 calendar days. The county superintendent of schools shall notify the Commission on Teacher Credentialing of the misassignments if the school district superintendent has not corrected the misassignments within 120 days of the initial notification, or if the school district superintendent of schools has not described, in writing, within the 120-day period, to the county superintendent of schools the extraordinary circumstances which make this correction impossible.*
- (f) *An applicant for a professional administrative service credential shall be required to demonstrate knowledge of existing credentialing laws, including knowledge of assignment authorizations.*
- (g) *The Superintendent shall submit a summary of the reports submitted by county superintendents pursuant to subdivision (c) to the Legislature. The Legislature may hold, within a reasonable period after receipt of the summary, public hearings on pupil access to teachers and to related statutory provisions. The Legislature may also assign one or more of the standing committees or a joint committee, to determine the following:*
- (1) *The effectiveness of the reviews required pursuant to this section.*
- (2) *The extent, if any, of vacancies and misassignments, as defined in subparagraphs (A) and (B) of paragraph (5) of subdivision (b) of Section 33126.*
- (3) *The need, if any, to assist schools ranked in deciles 1 to 3, inclusive, of the 2003 base Academic Performance Index, as defined in subdivision (b) of Section 17592.70, to eliminate vacancies and misassignments.*